

Jonathan Zachem, Secretary

Rick Scott, Governor

**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
November 13 and 14, 2018
General Meeting**

November 13, 2018

Chairperson Patricia Fitzgerald Luzier called the meeting of the Florida Real Estate Commission to order at approximately 8:30 a.m., in Orlando, Florida, on this Tuesday, the 13th of November 2018.

Commissioners

Chair Patricia Fitzgerald
Vice-Chair Patti Ketcham
Dick Fryer
Poul Hornsleth was excused and not present
Guy Sanchez
Randy Schwartz was excused and not present

Ms. Marlene Stern, Senior Assistant Attorney General appeared as counsel for the Commission. Ms. Stern declared quorum present.

Staff

Amrita Singh, Deputy Director
Lori Crawford, Executive Director
Al Cheneler, Chief Attorney
Allison McDonald, Deputy Chief Attorney
Janice Lugo, Operations Support Supervisor
Megan McAvoy, Regulatory Consultant
Dorothy Carter, Regulatory Specialist III
Michell Griffin-Smith, Regulatory Specialist III
Whitley Ward, Government Analyst I
American Court Reporting, Inc. (407) 896-1813 provided court services.

Summary of Applicants

Government Analyst, Whitley Ward, presented 62 Summary of Applicants requesting to sit for the real estate examination.

1. Agenda A, Tab B – Jorge L Jimenez-Justo, not present; represented by Daniel Villazon, Esquire, present; Sales associate application denial upheld; Vice-Chair Ketcham/Commissioner Sanchez; 4-1 vote.
2. Agenda B, Tab E – Belus Brutus, not present; represented by Daniel Villazon, Esquire, present; Sales associate application continued; waived 90 day requirements.
3. Agenda A, Tab J – Jose Alberto Duran, present; represented by Daniel Villazon, Esquire, present; Sales associate application approved; Commissioner Fryer/Commissioner Schwartz; unanimous vote.

4. Agenda A, Tab N – Juan Jesus Flores, present; represented by Daniel Villazon, Esquire, present; Sales associate application approved; Commissioner Fryer/Commissioner Schwartz; 3-2 vote.
5. Agenda B, Tab AD – Evan McCloud Puckett, present; represented by Daniel Villazon, Esquire, present; Sales associate application approved; Commissioner Fryer/Schwartz 4-1 vote.
6. Agenda A, Tab AI – David Rusnak, present; represented by Leighton Leib, Esquire, present; Sales associate application denied; Commissioner Sanchez/Commissioner Schwartz; 4-1 vote.
7. Agenda A, Tab C – Oscar Alejandro Baena, present; Sales associate application denied; Commissioner Sanchez/Commissioner Schwartz; unanimous vote.
8. Agenda A, Tab G – Adeyinka Cheese, present; Sales associate application approved; Commissioner Fryer/Commissioner Sanchez; unanimous vote.
9. Agenda A, Tab H – Brian Michael Corbman, present; continued; waived 90 day requirements.
10. Agenda A, Tab I – Ryan Dockeray-Inniss, present; Sales associate application approved; Commissioner Schwartz/Commissioner Fryer; unanimous vote.
11. Agenda A, Tab K – Reinaldo Estrada III, present; Sales associate application approved; Commissioner Fryer/Commissioner Schwartz; unanimous vote.
12. Agenda A, Tab L – Milain David Fayulu, present; Sales associate application denied; Commissioner Sanchez/Commissioner Fryer; 3-2 vote.
13. Agenda A, Tab O – Christian Garcia, present; Sales associate application denied; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
14. Agenda A, Tab P – Carlos Ricardo Graterol, present; Sales associate application approved; Commissioner Schwartz/Commissioner Sanchez; unanimous vote.
15. Agenda A, Tab Q – Edward Heath, present; Sales associate application approved; Commissioner Fryer/Commissioner Sanchez; unanimous vote
16. Agenda A, Tab T – John Henry Johnson, present; Sales associate application approved; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
17. Agenda A, Tab U – Omar G Ketner, present; Sales associate application approved; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
18. Agenda A, Tab W– Sara Rhishea Louis, present; Sales associate application approved; Commissioner Fryer/Commissioner Sanchez; unanimous vote.
19. Agenda A, Tab Y – James Albert Mayer, present; Sales associate application approved; Vice-Chair Ketcham /Commissioner Sanchez; unanimous vote.
20. Agenda A, Tab Z – Alamira K Morning, present; Sales associate application approved with conditions; Commissioner Fryer/Vice-Chair Ketcham; unanimous vote.
21. Agenda A, Tab AA – Bethany Marie Myers, present; Sales associate application approved; Commissioner Sanchez/Commissioner Fryer unanimous vote.
22. Agenda A, Tab AB – Victor Perez, present; Sales associate application approved; Vice-Chair Ketcham/Commissioner Fryer; unanimous vote.
23. Agenda A, Tab AC – Dean K Piper; Sales associate application denied; Commissioner Sanchez/Commissioner Fryer; unanimous vote.

24. Agenda A, Tab AG – Luis Fernando Ramirez, present; Sales associate application denied; Commissioner Sanchez/Commissioner Schwartz; unanimous vote.
25. Agenda A, Tab AH – Pablo Rosemberg, present; Sales associate application approved; Commissioner Fryer/Commissioner Sanchez; unanimous vote.
26. Agenda A, Tab AL – Marcia Wallace, present; Sales associate application approved with conditions; Commissioner Fryer/Commissioner Sanchez; unanimous vote.
27. Agenda A, Tab AN – Andrew C Witt, present; Sales associate application approved with conditions; Commissioner Fryer/Chair Fitzgerald; 3-2 vote.
28. Agenda A, Tab A– Giselle M Aquino, not present; informal hearing rescheduled.
29. Agenda A, Tab F – Jeffery Cadet, not present; Sales associate application denied; Commissioner Fryer/Commissioner Schwartz; unanimous vote.
30. Agenda A, Tab R – David Henderson, not present; Sales associate application continued; waived the 90-day requirement.
31. Agenda A, Tab S – Brianna Jernigan, not present; Sales associate application denied; Commissioner Sanchez/Vice-Chair Ketcham; unanimous vote.
32. Agenda A, Tab V – Victor Leiva, not present; Sales associate application denied; Commissioner Sanchez/Commissioner Fryer; unanimous vote
33. Agenda A, Tab X – Emily Shea Martin, not present; rescheduled
34. Agenda A, Tab AE – Karina Quiceno, not present; Sales associate application denied; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
35. Agenda A, Tab AF – Josef Rafael, not present; rescheduled.
36. Agenda A, Tab AJ – Addison Strzalka, not present Sales associate application approved; Commissioner Fryer/Vice Chair Ketcham; 4-1 vote.
37. Agenda A, Tab AK – Thai Xuan Truong, not present; Sales associate application denied; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
38. Agenda A, Tab AM – Christopher White, not present; Sales associate application denied; Commissioner Sanchez/Commissioner Schwartz; unanimous vote.
39. Agenda A, Tab M – Marcus Angel Fletcher, present; represented by Daniel Villazon, Esquire, present; Sales associate application approved; Commissioner Schwartz/Commissioner Fryer; unanimous vote.
40. Agenda B Tab R – Brandon Bond Senderling; present; Sales associate application denied; Commissioner Sanchez/Commissioner Schwartz; unanimous vote.
41. Agenda B, Tab A – Ryan Ahmann, present; Sales associate application approved; Commissioner Fryer/Vice-Chair Ketcham, 4-1 vote.
42. Agenda B, Tab C – Amy Bateh, present; Sales associate application approved; Commissioner Fryer/Commissioner Schwarz; unanimous vote.
43. Agenda B, Tab E – Diane Catina Britt, present; Sales associate application approved; Commissioner Fryer/Commissioner Schwartz; unanimous vote.

44. Agenda B, Tab F – Ciara Nicole Crook-Moore, present; Sales associate application approved; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
45. Agenda B, Tab G – Richard Dombroff Jr., present; Sales associate application approved; Commissioner Fryer/Vice-Chair Ketcham; 3-2 vote.
46. Agenda B, Tab H – Samantha Rose Endsley, present; Sales associate application approved; Commissioner Fryer/Commissioner Sanchez; 4-1 vote.
47. Agenda B, Tab I – Claude Leon Endy, present; Sales associate application denied; Commissioner Schwartz/Commissioner Sanchez unanimous vote.
48. Agenda B, Tab J – Dwayne Paul Johnson, present; Sales associate application approved; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
49. Agenda B Tab K – Charles Joseph, present; Sales associate application approved; Commissioner Fryer/Commissioner Sanchez; unanimous vote.
50. Agenda B, Tab L – Christopher Joel Lossing, present; Sales associate application approved; Commissioner Fryer/Commissioner Schwartz; unanimous vote.
51. Agenda B, Tab M – Matthew William Moore, present; Sales associate application approved; Commissioner Fryer/Commissioner Sanchez; unanimous vote.
52. Agenda B, Tab N – Katherine Christine Overbey, present; Sales associate application approved; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
53. Agenda B, Tab P – Caitlin Jami Russell, present; Sales associate application approved; Commissioner Fryer/Commissioner Schwartz; unanimous vote.
54. Agenda B, Tab Q – Natasha Schiller, present; Sales associate application approved; Commissioner Sanchez/Vice-Chair Ketcham; unanimous vote.
55. Agenda B, Tab S – Joseph Hixon Simpson, present; Sales associate application approved; Vice-Chair Ketcham/Commissioner Fryer; unanimous vote.
56. Agenda C, Tab A – Pamela Ann Martinez, present; Sales associate application approved; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
57. Agenda B, Tab B – Jason Veira Albuquerque not present; Sales associate application denied; Commissioner Fryer/Commissioner Sanchez; unanimous vote.
58. Agenda B, Tab D – Robert Bautista, not present; Sales associate application denied; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
59. Agenda B, Tab O – Brittney Owens, not present; Sales associate application denied; Commissioner Fryer/Commissioner Schwartz; unanimous vote.
60. Agenda B, Tab T – Andres Felipe Vargas, not present; Sales associate application denied; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
61. Agenda B, Tab U – Paul Christian Young, not present; Sales associate application denied; Commissioner Sanchez/Commissioner Fryer; unanimous vote.
62. Agenda A, Tab D – Adolfo Enrique Barros, not present; Sales application continued; waived the 90-day requirement.

Consent Agenda A

The Commission considered 38 applicants from the Consent Agenda A; Commissioner Fryer moved; Commissioner Sanchez seconded the motion to approve 20 applicants and require 16 applicants to be placed on the Summary of Applicant Agenda; the motion passed without dissent.

The following applicants were approved:

Balasco, Mark	Folkes, Lenford-Malik A.	Rahman, Shazad Raymond
Betz, Meghan	Freitas, Antone	Ruiz, David
Bryant, Rose	Hatala, Alexander Victor M.	Stevenson, Starla
Cantasano, Elizabeth Bianca	Joseph, Marie Marthe	Strickland, Shawn
Dieujuste, Jean Elie	Klopp, Randall Bruce	Turner, McCall Rae
Ferraz, Michael	Muthart, George Leslie Jr.	Zub, Irina
Filipskiy, Aleksandr F.	Pombo, Sergio	

The following applicants will be placed on the next available Summary of Applicant agenda:

Bonano, Luis	Healy, Lynne	Schwartz, Karla C.
Cicarelli, Jessica	Kouijzer, Hilda Griselda	Seda Morales, Lorena
Davis, Tracy	Mack, Ashanti L.	Sheffield, Amanda Lynn
Gonzalez, Corina E.	Metrovich, Mark S.	Valladares, Bryan Yizreel
Gonzalez, Jerrick	Natarov, Arseniy	Vega, Nelson Ismael
Guzman, Cesarina Patricia	Phillips, Jamara D.	Waldorf, William Robert

Consent Agenda B

The Commission considered 32 applicants from the Consent Agenda B; Commissioner Fryer moved; seconded by Commissioner Sanchez to approve 14 applicants and require 18 applicants to be placed on the Summary of Applicant Agenda; the motion passed without dissent.

The following applicants were approved:

Acce, James D.	Fulcher, David	Melendez, Christian R.
Atkinson, Brenda Kae	Hopper, Johnny	Michel, Denise Ariel
Castro, Francis Mikhail	Kopytchak, Kyle	Mosqueda, Erwin
Charneau, Yann	Lancaster, Terry Lynn	Skantze, Alan R.
Forman, Sharonda	Martin, Dennys	

The following applicants will be placed on the next available Summary of Applicant agenda:

Anderson, Lawanna	Dixon, Justin Michael	Martinez, Joel
Angomas, Shabazz	Flynn, Daniel M.	Matheos, Nicholas George J.
Bollet, David	Garcia, Maria Gabriela	Mcneal, Marilyn Michelle
Branda, Vincent Anthony	Hassun, Alexis	Nguyen Acevedo, Susan Thanh
Castellanos, Justin Bryce	Hawekotte, Lew Wallace	Persaud, Kevin Michael
Coker, James Bert	Landrau, Aramis	Rodriguez, Juan Carlos

Public Comments

The Commission offered but received no comments from members of the audience.

Recess

There being no objection, the Chair recessed the meeting at approximately 3:45 p.m. until 8:30 a.m. tomorrow.

November 14, 2018

Chair Fitzgerald reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:30 a.m., in Orlando, on this 14th day of November 2018.

Commissioners

Chair Patricia Fitzgerald

Vice-Chair Patti Ketcham

Dick Fryer

Poul Hornsleth appeared via phone from 9:45 to 10:30

Guy Sanchez

Randy Schwartz was excused and not present

Ms. Marlene Stern, Senior Assistant Attorney General appeared as counsel for the Commission. Ms. Stern declared quorum present.

Staff

Amrita Singh, Deputy Director

Lori Crawford, Executive Director

Al Cheneler, Chief Attorney

Allison McDonald, Deputy Chief Attorney

James Fortunas, Deputy Chief Attorney (via video conference)

Alisha Jimenez, Senior Attorney

David Aring, Senior Attorney (via video conference)

Merribeth Bohanan, Senior Attorney (via video conference)

Roger Maas, Senior Attorney (via video conference)

Sara Kimmig, Bureau Chief of Enforcement

Brian McAvoy, ULA Investigator Supervisor

Jocelyn Pomales, Education Coordinator

Dorothy Carter, Regulatory Specialist III

Whitley Ward, Government Analyst I

American Court Reporting, Inc. (407) 896-1813 provided court services.

Approval of the Minutes

Commissioner Fryer moved to approve the minutes of the September 18 & 19, 2018, general meeting as written; Commissioner Sanchez seconded; the motion passed without dissent

The minutes of the October 16 & 17, 2018, general meeting were deferred until December 2018.

Recovery Fund Case Docket

Tab A – Johnny Benjamin v. Roberto Torres, DBPR Case No. 2016006408

Ms. Jimenez presented the above matter to the Commission. Neither the Licensee nor the Claimant was present. Ms. Jimenez advised that the Claimant does not qualify statutorily to receive payment from the recovery fund. After discussion Commissioner Fryer moved to approve a Final Order Denying Recovery Fund Claim; Commissioner Sanchez seconded. The motion carried without dissent.

Escrow Disbursement Orders – Agenda

Ms. Jimenez presented 9 Escrow Disbursement Orders and 1 Order for Interpleader for the Commission's consideration. Commissioner Sanchez was recused from Tabs A, E and F.

The Commission, with Commissioner Sanchez recused, unanimously approved Tabs A and E as presented and F as amended.

The Commission unanimously approved to send Tab B for Interpleader.

The Commission unanimously approved Tabs: D, G, H and I as presented.

Tab C was pulled.

Legal Appearance Docket

The Commission addressed the Legal Appearance Docket, hearing 25 docket items with the following results:

I – Glenda Gemme Joyce Wonn, SL597891; Case No. 2017052824 – Voluntary Relinquishment for Permanent Revocation

Respondent was not present; Respondent was not represented by counsel. There was no probable cause panel.

Mr. Aring and Certified Legal Intern Erica KXXX represented the Department. Upon Mr. Cheneler's request the Commission permitted Ms. XXXX to present the matter. Commissioner Fryer moved; Commissioner Sanchez seconded the motion to accept the Voluntary Relinquishment for Permanent Revocation; the motion passed without dissent.

Action Taken: Voluntary Relinquishment of License for Permanent Revocation accepted.

Y– Nicole Diane Garcia, SL 3215840; Case No. 2017007881– Motion for Finding of Waiver and Entry of Final Order

Respondent was not present and was not represented by counsel. Commissioner Fryer was recused due to participation on the probable cause panel.

Ms. Jimenez represented the Department and presented the case to the Board. The Respondent requested a continuance. Commissioner Sanchez moved; seconded by Commission Hornsleth to deny the request; the motion passed without dissent. The Commission granted the Motion for Waiver. After discussion Commissioner Hornsleth moved; seconded by Commissioner Sanchez to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Sanchez moved; seconded by Commissioner Hornsleth; the motion passed without dissent to impose the following sanctions:

Penalty: Revocation; investigative costs of \$404.58 **Violation(s):** Section 475.25(1)(b), Florida Statutes, by being guilty of dishonest dealings, culpable negligence or breach of trust, or has formed an intent, design or scheme to engage in any such misconduct and committed an overt act in furtherance of such intent, design or scheme; Section 475.25(1)(e), Florida Statutes, through a violation of Section 475.42(1)(a), Florida Statutes, by operating as a sales associate without holding a current active license.

Tab E – Daniel Da La Vega, BK 3219981; Case No. 2016055091 – Settlement Stipulation

Respondent was not present; Respondent was represented by Eric P. Hockman, Esquire. Commissioner Hornsleth was recused due to participation on the probable cause panel. Commissioner Hornsleth was excused and not present.

Ms. Jimenez represented the department and presented the case to the Commission. After discussion Commissioner Fryer moved; seconded by Commissioner Sanchez to reject the stipulation; motion passed without dissent. Commissioner Fryer moved; seconded by Commissioner Sanchez; motion passed without dissent to offer a counter stipulation.

Penalty imposed: Administrative fine of \$2,000.00; investigative costs of \$1,336.50; attend 1 complete FREC meeting; 30-hour broker management course; 4-hour escrow management course; revised stipulation must be signed in 10 days. **Violation(s):** Section 475.25(1)(v), Florida Statutes, by failing to review the brokerage's trust accounting procedures in order to ensure compliance with Chapter 475; Section 475.25(1)(e), through a violation of Rule 61J2-14.012(2), Florida Administrative Code, by failing to make the records available and failing to provide monthly reconciliations.

Action Taken: Counter Settlement Stipulation accepted.

Tab G – MDLV LLC, CQ 1033191; Case No. 2017011437 – Settlement Stipulation

Respondent was not present; Respondent was represented by Eric P. Hockman, Esquire. Commissioner Hornsleth was recused due to participation on the probable cause panel. Commissioner Hornsleth was excused and not present.

Ms. Jimenez represented the department and presented the case to the Commission. After discussion Commission Fryer moved; seconded by Commissioner Sanchez to reject the stipulation; motion passed without dissent. Commissioner Fryer moved; seconded by Commissioner Sanchez; motion passed without dissent to offer a counter stipulation.

Penalty imposed: Investigative costs of \$1,526.25. **Violation(s):** Section 475.25(1)(v), Florida Statutes, by failing to review the brokerage's trust accounting procedures in order to ensure compliance with Chapter 475; Section 475.25(1)(e), through a violation of Rule 61J2-14.012(2), Florida Administrative Code, by failing to properly maintain records.

Action Taken: Counter Settlement Stipulation accepted.

Tab A – Farouk Ali, BK 3134852; Case No. 2016042019 – Respondent's Request for Informal Hearing

Respondent was not present; Respondent was presented by Daniel Villazon, Esquire; Commission Hornsleth was recused due to participation on the probable cause panel. Commissioner Hornsleth was excused and not present.

Ms. Bohanan represented the Department and presented the case to the Commission. Counsel for the Respondent requested a continuance so that Respondent may present mitigation. The Commission entered into discussion. Commissioner Fryer moved; seconded by Vice-Chair Ketcham to deny the continuance in part; the motion passed with a 3 to 1 vote. Commissioner Fryer moved; seconded by Commissioner Sanchez to adopt the Findings of Fact and Conclusions of Law and find the Respondent guilty as charged in the in the Administrative Complaint. The Commission deferred the penalty phase until December 2018.

Action taken: Penalty phase deferred until December 2018.

Tab B – Richard J. Hewins, SL 568005; Case No. 2017012028– Settlement Stipulation

Respondent was not present; Respondent was not represented by counsel. No current members were recused due to participation on the probable cause panel.

Ms. Jimenez represented the department and presented the case to the Commission. After discussion Commission Fryer moved; seconded by Commissioner Sanchez to reject the stipulation and continue the matter until December 2018; motion passed without dissent.

Action Taken: Continued until December 2018.

Tab C– Steven Tidas, SL 3133106; Case No. 2017014885 – Respondent's Request for Informal Hearing

Respondent was not present; Respondent was not presented by counsel. No current members were recused due to participation on the probable cause panel.

Ms. Jimenez represented the department and presented the case to the Commission. The Respondent requested a continuance until December. After discussion Commission Fryer moved; seconded by Commissioner Ketcham to continue the matter until December 2018; motion passed with a 3 to 1 vote.

Action Taken: Continued until December 2018.

Tab D– Brickell Brokers Corporation, CQ 1036856; Case No. 2017016985 – Settlement Stipulation

Action Taken: Continued until December 2018.

Tab F– David Cevallos, BK 3150810; Case No. 2017010972– Settlement Stipulation

Action Taken: Continued until December 2018.

Tab H – Nerstha Damier, SL 3268480 Case No. 2017022243 – Settlement Stipulation

Respondent was not present; Respondent was not represented by counsel. Commissioner Hornsleth was recused due to participation on the probable cause panel.

Ms. Jimenez represented the department and presented the case to the Commission. After discussion Commission Fryer moved; seconded by Commissioner Sanchez to reject the stipulation and continue the matter until December 2018; motion passed without dissent.

Action Taken: Settlement Stipulation rejected and continued until December 2018.

Tab J – Roberto Zarceno Alas, SL 3257952; Case No. 2017012929 – Motion for Finding of Waiver and Entry of Final Order

Respondent was not present was not represented by counsel. No current members were recused due to participation on the probable cause panel.

Mr. Aring and Certified Legal Intern Stephanie Fitzsimmons represented the Department. Upon Mr. Cheneler's request the Commission permitted Ms. Fitzsimmons to present the matter. The Respondent requested a continuance. Commissioner Fryer moved; seconded by Commissioner Sanchez denied the Respondent's request; the motion passed without dissent. The Commissioner granted the waiver hearing. After discussion Commissioner Fryer moved; seconded by Commissioner Sanchez to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Fryer moved; seconded by Commissioner Sanchez; the motion passed without dissent to impose the following sanctions:

Penalty: Revocation; investigative costs of \$1,254.00. **Violation(s):** Section 475.25(1)(b), Florida Statutes, by being guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme, or device, culpable negligence, or breach of trust in any business transaction in this state or any other state, nation, or territory; has violated a duty imposed upon her or him by law or by the terms of a listing contract, written, oral, express, or implied, in a real estate transaction; has aided, assisted, or conspired with any other person engaged in any such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in any such misconduct and committed an overt act in furtherance of such intent, design, or scheme; Section 475.25(1)(f), Florida Statutes, by having been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of a licensed broker or sales associate, or involves moral turpitude or fraudulent or dishonest dealing.

Tabs K–X – Imelda Gonzalez, SL 3069735; Case No(s) 2017000568, 2017046895, 2017049525, 2017051511, 2016043860, 2017009966, 2017047946, 2017049720, 2017046390, 2017051490, 2017054011, 0217055475, 2017055479, 2017059931 – Motion for Finding of Waiver and Entry of Final Order

Respondent was not present and was not represented by counsel. Commissioner Hornsleth was recused due to participation on the probable cause panel.

Mr. Maas and Certified Legal Intern Stephanie Fitzsimmons represented the Department. Upon Mr. Cheneler's request the Commission permitted Ms. Fitzsimmons to present the matter. The Commission granted the Motion for Waiver. After discussion Commissioner Fryer moved; seconded by Commissioner to find the Respondent guilty as charged in the Administrative Complaint; the motion passed without dissent. Commissioner Fryer moved; seconded by Commissioner Sanchez; the motion passed without dissent to impose the following sanctions:

Penalty: Revocation; pay investigative costs as follows: Case No. 2017-000568, \$577.20; Case No. 2017-046895, \$173.25; 2017-049525, \$214.50; 2017-051511, \$272.75; 2016-043860, \$684.75; 2017-009966, \$678.15; 2017-047946, \$173.25; 2017-049720, \$346.50; 2017-046390, \$288.75; 2017-051490, \$280.50; 2017-054011, \$445.50; 2017-055475, \$313.50; 2017-055479, \$338.25; 2017-059931, \$264.00. **Violation(s):** Section 475.25(1)(e) Florida Statutes, through a violation of Rule 61J2-5.016, Florida Administrative Code, by being an officer and or director of Arcadia, even after notice from the Department in 2012 regarding the impropriety of such an arrangement; Section 475.42(1)(b), Florida Statutes, by holding an officer and /or director position in Arcadia and Maintaining signatory authority over an escrow account; Section 475.25(1)(k), Florida Statutes, by contrary to the terms of both the Contract and the Deposit Receipt, misdirecting Buyer's Escrow into Respondent's and Arcadia's operating account; Section 455.227(1)(m), Florida Statutes, by making untrue statements in or related to the practice of a profession; Section 475.42(1)(a), by facilitating a real estate transaction while her license was inactive; Section 475.25(1)(d)1, Florida Statutes, by failing to timely account for or deliver the escrow and commingling the escrow deposit with the operating funds and commingling the escrow deposit with the operating funds .

Review and Consideration of the Real Estate Education Courses

Tab A – *Florida 3 Hr Ethics for Real Estate Professionals* – New Course (E & B)(3 hours, distance) – application number 34561 – @YourPace Online.

The applicant was not present in support of the application. The Commission entered into discussion. Commissioner Fryer moved to approve the course with conditions; Commissioner Ketcham seconded the motion. The motion passed with a 6-1 vote.

Tab B – *Technology Tools, Trends and Risk Management* – New Course (4 hours specialty, distance) – application number 34786 – CE Shop, Inc.

The applicant was not present in support of the application. The Commission entered into discussion. Commissioner Fryer moved to approve the course; Commissioner Ketcham seconded the motion. The motion passed without dissent.

Tab C – *Everything you wanted to know about Mold but were afraid to ask* – New Course (2 hours specialty, classroom) – application number 34493 – Decon Environmental & Engineering, Inc.

The applicant was not present in support of the application. The Commission entered into discussion. Commissioner Sanchez moved to deny the course; Commissioner Hornsleth seconded the motion. The motion passed without dissent.

Tab D – *Build Your Business with Instagram and Snapchat* – New Course (3 hours specialty, classroom) – application number 34569 – Florida Association of Realtors

The applicant was not present in support of the application. The Commission entered into discussion. Commissioner Fryer moved to approve the course; Commissioner Sanchez seconded the motion. The motion passed without dissent.

Tab E – Introduction to The Cloud – New Course (2 hours specialty, classroom) – application number 34570 – Florida Association of Realtors

The applicant was not present in support of the application. The Commission entered into discussion. Commissioner Ketcham moved to approve the course; Commissioner Fryer seconded the motion. The motion passed 4-2.

Reports

The following reports were presented to the Commission:

Enforcement Trends and Escrow Audits Reports
Unlicensed Activity Report
Monthly Exam Performance Summary Report
Application and License Count Reports
Legal Case Activity Report
Rules Report

The staff addressed questions and comments from the Commission.

Rule Discussion

Rules Report

FREC Counsel Stern reported on the status of rules currently open for discussion, workshop or rulemaking and addressed any questions from the Commission.

Rule 61J2-3.011, Florida Administrative Code – Continuing Education for School Instructors Discussion

FREC Counsel Stern and the Commission discussed potential changes to the rule. After discussion, Commissioner moved to adopt the language as discussed and amended; seconded by Commissioner Sanchez; the motion passed without dissent.

Ms. Stern requested the Commission review the SERC checklist for approval. Commissioner Fryer moved to accept the Department's proposed determination that there is no impact on small businesses; seconded by Commissioner Sanchez; the motion passed without dissent.

Ms. Stern requested the Commission determine whether a violation of this rule or any part of this rule be designated a minor violation. Commissioner Fryer moved that any violation of this rule would be a minor violation; Commissioner Sanchez seconded the motion; the motion passed without dissent.

Rule 61J2-24.003, Florida Administrative Code – Notification of Noncompliance

FREC Counsel Stern and the Commission discussed potential changes to the rule. After discussion, Commissioner moved to adopt the language as discussed and amended; seconded by Commissioner Sanchez; the motion passed without dissent.

Ms. Stern requested the Commission review the SERC checklist for approval. Commissioner Fryer moved to accept the Department's proposed determination that there is no impact on small businesses; seconded by Commissioner Sanchez; the motion passed without dissent.

Ms. Stern requested the Commission determine whether a violation of this rule or any part of this rule not be designated a minor violation. Commissioner Fryer moved that any violation of this rule would be a minor violation; Commissioner Sanchez seconded the motion; the motion passed without dissent.

Rule 61J2-24.002, Florida Administrative Code – Citation Authority

FREC Counsel Stern and the Commission discussed potential changes to the rule. After discussion, Commissioner moved to adopt the language as discussed and amended; seconded by Commissioner Sanchez; the motion passed without dissent.

Ms. Stern requested the Commission review the SERC checklist for approval. Commissioner Fryer moved to accept the Department's proposed determination that there is no impact on small businesses; seconded by Commissioner Sanchez; the motion passed without dissent.

Ms. Stern requested the Commission determine whether a violation of this rule or any part of this rule be designated a minor violation. Commissioner Fryer moved that any violation of this rule would be a minor violation; Commissioner Sanchez seconded the motion; the motion passed without dissent.

Rule 61J2-24.001, Florida Administrative Code – Disciplinary Guidelines

FREC Counsel Stern and the Commission discussed potential changes to the rule. The Commission provided some guidance for proposed language amendments for violations relating to 61J2-10.026 – Team Advertisement. After discussion, Ms. Stern stated that she will provide proposed language with the amendments for further review and discussion at a meeting in the near future.

Rule 61J2-10.025, Florida Administrative Code – Advertising Discussion

FREC Counsel Stern and the Commission discussed potential changes to the rule. The Commissioner received comments from Ms. Marcia Tabak, Counsel for Florida Realtors. After discussion, Ms. Stern stated that she will provide a proposed draft for consideration and workshop at a meeting in the near future.

Special Agenda

Communications Regarding Rule 61J2-10.026, Florida Administrative Code

Executive Director Crawford reported that last month Ms. Stern was going to research whether the Commission should provide guidance without a proper petition for Declaratory Statement. Ms. Stern stated that the Commission may address the questions providing a disclaimer that this is informal discussion and the information that may be fully relied upon.

The Commission addressed the following inquiry relating to Team Advertisement:

Communication relating to whether email addresses and domain names may contain words banned in the rule. The Commission again agreed that a domain name and email address (for both a team and team members) is not considered advertising under rule 61J2-10.026.

Discussion Regarding Permissible Activities of an Unlicensed Assistant

The Commission reviewed the current list of Permissible Activities of an Unlicensed Assistant for possible changes. After discussion, Commissioner Fryer moved to amend the list as discussion; Vice-Chair Ketcham seconded the motion; the motion passed without dissent.

Communication Received From Candace Tamposi

Executive Director Crawford presented communication from Ms. Tamposi requesting the Commission reinstate her null and void real estate broker license based on a hardship. After review and consideration, the Commission denied the request.

Executive Director's Report

Executive Director Crawford stated that she is excited to have Deputy Director Amrita Singh on board and that Division staff is looking forward to working with her.

Ms. Crawford also wished everyone a safe and Happy Thanksgiving holiday.

Chair's Comments

Discussion Relating to Broker Qualifications Standards

Chair Fitzgerald stated a major concern of this Commission is broker qualification standards. She would like this group to weigh in on what can be done to improve this issue. The Commission entered into discussion. Chair Fitzgerald requested to discuss this issue further next month to address the Commissioners' recommendations as to what changes they would like to see relating to broker requirements.

Public Comments

The Commission offered, however, did not receive any public comments from members of the audience.

Adjournment

There being no other business, the Chair adjourned the meeting at approximately 1:37 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for December 11 and 12, 2018, in Orlando.

ATTEST:


Patricia Fitzgerald, Chair
Florida Real Estate Commission


Lori Crawford, Executive Director
Florida Real Estate Commission